

Senate Bill No. 731

CHAPTER 270

An act to amend Section 44015 of the Health and Safety Code, to amend Section 5103 of the Public Contract Code, to amend Sections 5090.02, 5090.09, and 5090.35 of the Public Resources Code, to amend Section 21706 of the Public Utilities Code, to amend Section 140.3 of the Streets and Highways Code, and to amend Sections 285, 2250, 4601, and 24602 of the Vehicle Code, relating to state and local government.

[Approved by Governor September 22, 2005. Filed with
Secretary of State September 22, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 731, Torlakson. State and local government.

(1) Existing law requires motor vehicle dealers to be responsible for having a smog check inspection performed on motor vehicles offered for retail sale, except as specifically provided.

This bill would modify this provision.

(2) Existing law requires the bidder, in a court proceeding to obtain relief from a bid for a public contract, to demonstrate to the satisfaction of the court that, among other things, a mistake was made and that the bidder gave the public entity written notice of the mistake within 5 days after the opening of the bids.

This bill would exclude Saturdays, Sundays, and state holidays from that 5-day period.

(3) Existing law, the Off-Highway Motor Vehicle Recreation Act of 2003, until January 1, 2007, provides for the acquisition, operation, and funding of a system defined as the state vehicular recreation areas, the California Statewide Motorized Trail, designated areas within the state park, and areas supported by a specified off-highway vehicles grant program.

This bill would make technical, conforming changes to certain provisions of the act.

(4) Existing law requires applications for funding from the Aeronautics Account in the State Transportation Fund to be processed in accordance with the procedures adopted by the California Transportation Commission for processing applications by local entities for projects included in the state transportation improvement program.

This bill would revise the process used by the commission for funding projects from the Aeronautics Account.

(5) Existing law establishes the Equipment Service Fund in the State Treasury and continuously appropriates all money in the fund to the Department of Transportation to pay for mobile equipment services. Existing law provides that if the unencumbered balance remaining in the

fund at the end of any fiscal year is more than 25% of the total annual appropriation made to the fund under the most recent Budget Act, the unencumbered balance is required to be refunded to programs that were assessed mobile equipment service charges during that fiscal year, as specified.

This bill would instead provide that if the balance remaining in the fund at the end of any fiscal year exceeds the amount allowable for billed central services under the Federal Office of Management and Budget Circular A-87, the balance is required to be treated consistent with that circular.

(6) Existing law specifies the membership, by rank, of the California Highway Patrol, and includes “deputy chiefs” among the ranks.

This bill would change the reference to “deputy chiefs” to “chiefs.”

(7) Existing law defines a motor vehicle “dealer” as a person who sells a vehicle subject to registration under the Vehicle Code, a motorcycle or all-terrain vehicle subject to identification under that code, or a trailer subject to identification pursuant to that code.

This bill would add to the list of vehicles sold by dealers a snowmobile subject to identification under that code.

(8) Existing law authorizes the Department of Motor Vehicles to accept registration fees not more than 60 days prior to the expiration of the current registration or certification for a vehicle.

This bill would instead authorize the department to accept those registration fees not more than 75 days prior to the expiration of the current registration or certification for a vehicle.

(9) Existing law authorizes a vehicle to be equipped with not more than 2 red fog tail lamps mounted not lower than 15 inches.

This bill would authorize the tail lamps to be mounted not lower than 12 inches.

The people of the State of California do enact as follows:

SECTION 1. Section 44015 of the Health and Safety Code is amended to read:

44015. (a) A licensed smog check station shall not issue a certificate of compliance, except as authorized by this chapter, to any vehicle that meets the following criteria:

(1) A vehicle that has been tampered with.

(2) A vehicle that, prior to repairs, has been initially identified by the smog check station as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2.

(3) A vehicle described in subdivision (c).

(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

(c) (1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity authorized to perform referee functions for a vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit established under Section 44017 and that every defect specified by paragraph (2) of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph shall be accepted in lieu of a certificate of compliance for the purposes of compliance with Section 4000.3 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No repair cost waiver shall be issued until the vehicle owner has expended an amount equal to the applicable repair cost limit specified in Section 44017.

(2) An economic hardship extension shall be issued, upon request of a qualified low-income motor vehicle owner, by an entity authorized to perform referee functions, for a motor vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit, as established pursuant to Section 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section 43204, and in paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that the low-income vehicle owner would suffer an economic hardship if the extension is not issued, and that all appropriate emissions-related repairs up to the amount of the applicable repair cost limit in Section 44017.1 have been performed.

(d) No repair cost waiver or economic hardship extension shall be issued under any of the following circumstances:

(1) If a motor vehicle was issued a repair cost waiver or economic hardship extension in the previous biennial inspection of that vehicle. A repair cost waiver or economic hardship extension may be issued to a motor vehicle owner only once for a particular motor vehicle belonging to that owner. However, a repair cost waiver or economic hardship extension may be issued for a motor vehicle that participated in a previous waiver or extension program prior to January 1, 1998, as determined by the department. For waivers or extensions issued in the program operative on or after January 1, 1998, a waiver or extension may be issued for a motor vehicle only once per owner.

(2) Upon initial registration of all of the following:

(A) A direct import motor vehicle.

(B) A motor vehicle previously registered outside this state.

(C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

- (D) A motor vehicle that has had an engine change.
- (E) An alternate fuel vehicle.
- (F) A specially constructed vehicle.

(e) Except as provided in subdivision (f), a certificate of compliance or noncompliance shall be valid for 90 days.

(f) Excluding any vehicle whose transfer of ownership and registration is described in subdivision (d) of Section 4000.1 of the Vehicle Code, and except as otherwise provided in Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a licensed motor vehicle dealer shall be responsible for having a smog check inspection performed on, and a certificate of compliance or noncompliance issued for, every motor vehicle offered for retail sale. A certificate issued to a licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle is sold and registered to a retail buyer, whichever occurs first.

(g) A test may be made at any time within 90 days prior to the date otherwise required.

SEC. 2. Section 5103 of the Public Contract Code is amended to read: 5103. The bidder shall establish to the satisfaction of the court that:

- (a) A mistake was made.
- (b) He or she gave the public entity written notice within five working days, excluding Saturdays, Sundays, and state holidays, after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred.
- (c) The mistake made the bid materially different than he or she intended it to be.
- (d) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications.

SEC. 3. Section 5090.02 of the Public Resources Code is amended to read:

5090.02. (a) The Legislature finds that off-highway motor vehicles are enjoying an ever-increasing popularity in California and that the indiscriminate and uncontrolled use of those vehicles may have a deleterious impact on the environment, wildlife habitats, native wildlife, and native flora.

(b) The Legislature hereby declares that effectively managed areas and adequate facilities for the use of off-highway vehicles and conservation and enforcement are essential for ecologically balanced recreation.

(c) Accordingly, it is the intent of the Legislature that:

(1) Existing off-highway motor vehicle recreational areas, facilities, and opportunities be expanded and be managed in a manner consistent with this chapter, in particular to maintain sustained long-term use.

(2) New off-highway motor vehicle recreational areas, facilities, and opportunities be provided and managed pursuant to this chapter in a manner that will sustain long-term use.

(3) When areas or trails or portions thereof cannot be maintained to appropriate established standards for sustained long-term use, they shall be

closed to use and repaired, to prevent accelerated erosion. Those areas shall remain closed until they can be managed within the soil conservation standard or shall be closed and restored.

(4) Prompt and effective implementation of the Off-Highway Motor Vehicle Recreation Program by the Division of Off-Highway Motor Vehicle Recreation shall have an equal priority among other programs in the department.

(5) Off-highway motor vehicle recreation be managed in accordance with this chapter through financial assistance to local government and joint undertakings with agencies of the United States.

SEC. 4. Section 5090.09 of the Public Resources Code is amended to read:

5090.09. "System" means the state vehicular recreation areas, the California Statewide Motorized Trail, areas and trails within the state park system, and areas supported by the grant program.

SEC. 5. Section 5090.35 of the Public Resources Code is amended to read:

5090.35. (a) The protection of public safety, the appropriate utilization of lands, and the conservation of land resources are of the highest priority in the management of the state vehicular recreation areas; and, accordingly, the division shall promptly repair and continuously maintain areas and trails, anticipate and prevent accelerated and unnatural erosion, and restore lands damaged by erosion to the extent possible.

(b) (1) The division, in consultation with the United States Natural Resource Conservation Service, the United States Geological Survey, the United States Forest Service, the United States Bureau of Land Management, and the California Department of Conservation shall update the 1991 Soil Conservation Guidelines and Standards to establish a generic and measurable soil conservation standard by March 1, 2006, at least sufficient to allow restoration of off-highway motor vehicle areas and trails. The 1991 Soil Conservation Guidelines and Standards shall remain in effect until they are updated pursuant to this subdivision.

(2) Upon a determination that the soil conservation standards and habitat protection plans are not being met in any portion of any state vehicular recreation area the division shall temporarily close the noncompliant portion to repair and prevent accelerated erosion, until the soil conservation standards are met.

(3) Upon a determination that the soil conservation standards cannot be met in any portion of any state vehicular recreation area the division shall close and restore the noncompliant portion pursuant to Section 5090.11.

(c) (1) The division shall make an inventory of wildlife populations and their habitats in each state vehicular recreation area and shall prepare a wildlife habitat protection program to sustain a viable species composition specific to each state vehicular recreation area by July 1, 1989.

(2) If the division determines that the habitat protection program is not being met in any portion of any state vehicular recreation area, the division

shall close the noncompliant portion temporarily until the habitat protection program is met.

(3) If the division determines that the habitat protection program cannot be met in any portion of any state vehicular recreation area, the division shall close and restore that noncompliant portion pursuant to Section 5090.11.

(d) The division shall monitor the condition of soils and wildlife habitat in each state vehicular recreation area each year in order to determine whether the soil conservation standards and habitat protection programs are being met.

(e) The division shall not fund trail construction unless the trail is capable of complying with the conservation specifications prescribed in subdivisions (b) and (c). The division shall not fund trail construction where conservation is not feasible.

(f) The division shall monitor and protect cultural and archaeological resources within the state vehicular recreation areas.

SEC. 6. Section 21706 of the Public Utilities Code is amended to read:

21706. The division shall require that every project submitted for funding from the Aeronautics Account in the State Transportation Fund shall be consistent with the California Aviation System Plan. Applications for funding shall be processed in accordance with the procedures adopted by the commission. In determining the priorities of projects, the division shall, and the transportation planning agencies may, utilize the methodology adopted by the commission for determining the priorities of projects that the commission selects for allocation pursuant to Sections 21683 and 21683.2 and the procedures adopted by the commission.

SEC. 7. Section 140.3 of the Streets and Highways Code is amended to read:

140.3. (a) For the purposes of this section, the following terms have the following meanings:

(1) (A) “Mobile equipment” means devices owned by the department by which any person or property may be propelled, moved, or drawn on or off highway and that are used for employee transportation or material movement, or for construction or maintenance work relating to transportation, including, but not limited to, passenger vehicles, heavy duty trucks, boats, trailers, motorized construction equipment, and “slip-in” accessories or attachments that are used by more than one functional unit.

(B) “Mobile equipment” does not include any of the following:

(i) Office equipment, computers, and any other stationary, nonmovable, and integral part of a transportation facility.

(ii) Passenger vehicles used to transport the public.

(iii) Aircraft or related aeronautics equipment.

(iv) Rolling stock used for intercity rail operations.

(2) “Mobile equipment services” includes, but is not limited to, all of the following:

(A) Use of mobile equipment and services, including, but not limited to, the purchase of new vehicles.

(B) Receiving, servicing, and equipping new mobile equipment units.

(C) Assembling components into completed mobile equipment units.

(D) Managing mobile equipment and services, including, but not limited to, payment for fuel and insurance.

(E) Repairing, rehabilitating, and maintaining mobile equipment.

(F) Disposing of used vehicles.

(3) “Mobile equipment services cost recovery” means revenues from assessments charged to the department’s divisions and programs for mobile equipment services, or revenues from charges for equipment services provided to local transportation authorities, including, but not limited to, cost recovery for all of the following:

(A) Salaries and wages.

(B) Facility and inventory improvements.

(C) Capital outlay support projects.

(D) Overhead, depreciation, and operating expenses.

(b) The department, with the approval of the Department of Finance, shall set rates for mobile equipment services. The department shall review its rates on an annual basis and, upon approval by the Department of Finance, shall publish a rate schedule on or before April 30 of each year. The department shall collect mobile equipment services cost recovery.

(c) The Equipment Service Fund is hereby created in the State Treasury. Notwithstanding Section 13340, all money in the fund is continuously appropriated to the department to pay for mobile equipment services.

(d) The net proceeds from mobile equipment services cost recovery shall be deposited in the fund. In addition, any moneys appropriated to the department under the annual Budget Act, or under any other act, for the use of existing mobile equipment or for the purchase of that equipment, and any moneys transferred to the department from any account within the State Transportation Fund for those purposes, may be deposited in the fund.

(e) If the balance remaining in the fund at the end of any fiscal year exceeds the amount allowable for billed central services under the Federal Office of Management and Budget Circular A-87 or superceding circular, as determined by the department and the Department of Finance, the balance shall be treated consistent with the requirements of the Federal Office of Management and Budget Circular A-87 or superseding circular.

SEC. 8. Section 285 of the Vehicle Code, as amended by Section 1 of Chapter 836 of the Statutes of 2004, is amended to read:

285. “Dealer” is a person not otherwise expressly excluded by Section 286 who:

(a) For commission, money, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates or attempts to negotiate, a sale or exchange of an interest in, a vehicle subject to registration, a motorcycle, snowmobile, or all-terrain vehicle subject to identification under this code,

or a trailer subject to identification pursuant to Section 5014.1, or induces or attempts to induce any person to buy or exchange an interest in a vehicle and, who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of the vehicle.

(b) Is engaged wholly or in part in the business of selling vehicles or buying or taking in trade, vehicles for the purpose of resale, selling, or offering for sale, or consigned to be sold, or otherwise dealing in vehicles, whether or not the vehicles are owned by the person.

SEC. 9. Section 2250 of the Vehicle Code is amended to read:

2250. The California Highway Patrol in the Department of the California Highway Patrol consists of the following members: the commissioner, the deputy commissioner, assistant commissioners, chiefs, assistant chiefs, captains, lieutenants, sergeants, and officers.

SEC. 10. Section 4601 of the Vehicle Code is amended to read:

4601. (a) Except as otherwise provided in this code, every vehicle registration and registration card expires at midnight on the expiration date designated by the director pursuant to Section 1651.5, and shall be renewed prior to the expiration of the registration year. The department may, upon payment of the proper fees, renew the registration of vehicles.

(b) Notwithstanding any other provision of law, renewal of registration for any vehicle that is either currently registered or for which a certification pursuant to Section 4604 has been filed may be obtained not more than 75 days prior to the expiration of the current registration or certification.

SEC. 11. Section 24602 of the Vehicle Code is amended to read:

24602. (a) A vehicle may be equipped with not more than two red fog taillamps mounted on the rear which may be lighted, in addition to the required taillamps, only when atmospheric conditions, such as fog, rain, snow, smoke, or dust, reduce the daytime or nighttime visibility of other vehicles to less than 500 feet.

(b) The lamps authorized under subdivision (a) shall be installed as follows:

(1) When two lamps are installed, one shall be mounted at the left side and one at the right side at the same level and as close as practical to the sides. When one lamp is installed, it shall be mounted as close as practical to the left side or on the center of the vehicle.

(2) The lamps shall be mounted not lower than 12 inches nor higher than 60 inches.

(3) The edge of the lens of the lamp shall be no closer than four inches from the edge of the lens of any stoplamp.

(4) The lamps shall be wired so they can be turned on only when the headlamps are on and shall have a switch that allows them to be turned off when the headlamps are on.

(5) A nonflashing amber pilot light that is lighted when the lamps are turned on shall be mounted in a location readily visible to the driver.

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